LEGAL STATUS OF AGRICULTURAL WORKERS

UNDER

STATE LABOR LEGISLATION

Prepared by
Samuel Liss

Personnel and Labor Relations Division

Farm Security Administration

July 1939

LEGAL STATUS OF AGRICULTURAL WORKERS

UNDER

STATE LABOR LEGISLATION

Prepared by
Samuel Liss

Personnel and Labor Relations Division

Farm Security Administration

July 1939

C O N T E N T S

Introduction

In the first decade of the 20th Century, the United States awoke to the fact that it was a great industrial nation and not a pioneer community. A great wave of interest arose concerning the conditions under which millions of its citizens labored for wages. The considerable number of labor laws which followed this awakening was a recognition that as American industry had become of age, there came a need for the legal protection of wage workers. At that time, however, the nature of working conditions of persons employed in agricultural occupations did not enter the stream of social consciousness. Agriculture, for the most part, appeared to be "a way of life," and the family-labor, owner-operated type of farming seemed an achieved American ideal. The system of sharecropping in the South was looked upon as an inevitable outgrowth of agricultural conditions following the Civil War. Its local abuses were not considered sufficiently important to constitute a national problem. Few studies were made and little information published regarding the laboring conditions of regular farm hands, sharecroppers, and seasonal agricultural laborers.

It was not long, however, before agriculture changed in large part from a family owned and operated industry to a commercialized and mechanized type of farming in wide regions of the country. Hundreds of thousands of wage workers became attached to "farm factories",

eking out a living with great difficulty and under extremely onerous conditions. Today, sharecropping in the South is giving way to a system of day labor and "croppers" are becoming wage workers. Yet, very little has been done to safeguard the conditions under which an increasing number of agricultural workers labor. Organizations for mutual protection among these workers are still in their infancy and legal protection of their working conditions is practically non-existent.

Examination of State labor laws reveals a conspicuous practice on the part of legislatures to deny persons employed in farming legislative protection. Some of the reasons which have been advanced for the exclusion of this group of workers from the provisions of State labor legislation have been: (a) a belief that the administrative difficulties would make administrative costs so high as to be prohibitive; (b) a fear that the small farmers would be placed at a disadvantage in comparison with large farmers if the legislation applied equally to both; (c) a tradition that the farm hand does not require protection; and (d) that inclusion of farm laborers would result in defeat of any proposed labor legislation. 1/

No attempt is made here to examine critically the merits of these contentions. The following review of labor legislation as it affects agricultural workers does no more than show whether or not the State provides legal standards affecting the employment of this type

1/ William T. Ham, "The Status of Agricultural Labor," Law and Contemporary Problems, October 1937, p. 567.

of labor. Failure to include labor employed in agriculture under the law removes, of course, any possible protection of the sheltering arm of legal authority given to workers in other employments. Some States, however, undertake, at least nominally, to control agricultural employment of men, women and children. Where agricultural labor is nominally included under an all-inclusive coverage provision, or where farm coverage may be inferred from the language of the law, it is impossible to tell, without further inquiry, whether or not the laws apply to farm labor. Such coverage can be determined only by administrative or legal interpretation. Analysis of the laws themselves, as they affect farm labor, cannot reveal the actual experience resulting from their application. Such information can be obtained only through inquiries directed at State administrative officials and through field surveys. This is especially needed in a discussion of persons employed in agriculture because historically labor laws were designed to control primarily workers in industry and commerce, and the application of these laws to agriculture work has involved serious administrative difficulties. As a result, farm labor may be practically unregulated, even though nominally or impliedly subject to the law. It is possible, also, that the question of the implied inclusion of farm laborers within the scope of these laws was not even raised at the time of their passage. If it had been raised, specific exclusions would probably have been enacted in some cases.

In addition, the provisions in some of the laws contain loop-holes or "jokers" which either make them meaningless or render them unenforceable. In cases of legal limitation of hours ostensibly applying to farm workers, for example, some States exempt farm laborers who "agree" to work more than the maximum set for a day's work or exempt them for a certain period during the year. Other States permit work beyond the legal maximum by inserting such qualifications as "except in emergencies or public necessity," or in "rush periods," or with "consent of the employees." Sometimes no provisions are made in such cases for a compensatory rate of pay for time worked beyond the maximum number of hours stipulated in the law. Also, by means of the numerical exemption, workmen's compensation laws of many States automatically bar from coverage most of the persons engaged in farming, when they are not named as exempt. Moreover, compensation coverage in some States is determined not by the hazard of the farming process, but by the industrial classification of the person who operates the machine. Operation of farm machinery is covered under the compensation law if engaged on a commercial basis or by contract. If such machinery is owned and operated by the farmer himself in relation to his own crops or by those who are not generally engaged in operation of such machines for commercial purposes, or in operations in the nature of exchange work between farmers, the provisions for coverage do not apply.

But even legal protection is no guarantee of effective enforcement. Existence of labor laws on the statute books does not insure

their observance. Reported experience with labor laws and their administration indicates that wide variations frequently exist between the literal wording of the law and the administrative procedures which are developed by enforcing officials, based on general or specific authority. Adequate enforcement machinery, sufficient appropriations for enforcement, carefully selected enforcement officials to make inspections and prosecutions, commensurate penalties for non-compliance, cooperation of the courts in punishing violators, are all necessary to good enforcement, but may not be available. Some States are notoriously negligent in the enforcement of existing labor laws, particularly those pertaining to child workers. Laws requiring the worker to initiate litigation to secure redress of grievances or to gain positive advantages from existing law are especially ineffective.

Finally, to secure effective enforcement, strong public sentiment is required and especially vigorous support from the workers themselves. The neglect of agricultural workers in the field of protective labor legislation has been due in no small part to little or no union organization among them and to the absence of other effective means of bringing their needs to the attention of legislators and administrative officials. An example is to be found in the operation of minimum wage legislation. Minimum wage laws are generally broad in their coverage and practically all of the States having such laws provide for a determination of wage rates by conferences or wage boards appointed to

study the various industries. Before any group of workers may receive the benefit of having their minimum wages fixed in these States, the appropriate State agency must first issue specific or blanket decrees or orders applying to them. Very frequently such investigations are instigated and minimum wages determined through strength of public opinion and union organizations. But both have been generally absent with respect to farm workers. 1/

1/ The analysis herein presented is based on information concerning some of the labor standards of specific groups of workers compiled by the Children's Bureau, the Women's Bureau, the Division of Labor Standards and the Law Information Division of the Bureau of Labor Statistics, in the United States Department of Labor. Helpful suggestions and advice were received also from members associated with these bureaus. Mrs. Lucy Manning of the Children's Bureau carefully examined the section on the "Status of Child Workers in Agriculture Under Laws Relating to Minimum Age, Employment Certificates and Hours of Labor," and made numerous valuable suggestions regarding more realistic groupings of States. Miss Florence Smith of the Women's Bureau read the section on the "Status of Agricultural Workers Under Minimum Wage Legislation" and Volunteered additional pertinent data from her personal files. Mrs. Frances Smith of the Division of Labor Standards was kind enough to check the section on the "Status of Adult Workers in Agriculture Under Laws Limiting Hours of Work." Miss Jean A. Flexner of the same division made it possible for the author to contact the persons mentioned above. Also, members of Mr. Sharkey's Division on Labor Law Information were very helpful in running down interpretations and decisions of courts and of State legal officers on labor cases.

LEGAL STATUS OF AGRICULTURAL WORKERS UNDER STATE LABOR LEGISLATION

I. Status of Child Workers in Agriculture Under Laws Relating to Minimum Age, Employment Certificates and Hours of Labor.1/

A. General legal standards for child workers.

Every State in the United States has enacted laws to protect children from too early or harmful employment, and to afford them opportunity for education, training and recreation during their formative years. It is generally recognized that the first and most important standard of a child labor law is the minimum age at which a child may go to work. A second standard regarded as basic in the administration of State child labor laws is the basis for granting employment certificates. These certificates, issued usually by departments of labor or by public school officials, are evidence that a child has met the legal standards for employment, and at the same time protect the employer from unwitting employment of a child below the legal age. Employment certificates also serve as a

1/ Minimum wage legislation and workmen's compensation laws affecting child workers in agriculture are discussed in other sections of this analysis.

link between school and work, and as a guide to enforcing authorities in seeing that the children are surrounded with the safeguards designed by law to protect them during their period of adjustment to work. After a child has entered employment, a good child labor law places around him additional safeguards. Among these safeguards are included the maximum number of hours per day and per week that minors may be employed.

Only seven States and the District of Columbia, Hawaii and Puerto Rico have enacted child labor laws which directly or impliedly apply any of these standards to the employment of children in agricultural pursuits.

B. Legal standards for child workers in agriculture in seven States and three jurisdictions.

1. Massachusetts.

In Massachusetts the child labor law provides for a minimum age of 14 for children employed during school hours or at any time in any occupation, with the exception of agriculture.[1/] However, the minimum age for agriculture employment in this State is found elswhere in the

1/ Domectic labor also exempted.

law in a requirement for a special permit for farm work. This section of the law provides that children between 14 and 16 years of age employed on farms "shall be required to secure a special certificate issued by the Superintendent of Schools covering such employment."[1/]

2. Pennsylvania.

Similarly, in Pennsylvania, the minimum age requirement for employment of children in farming is not derived from the child labor law, since the latter exempts farm work from its minimum age provisions.[2/] As in Massachusetts, the minimum age in Pennsylvania for farm employment of children during school hours stems from a requirement for special permit which must be obtained in order that a child may be excused from school under the compulsory school attendance law.[3/] Thus, in this State, a child of 15 may be excused for farm work only if he has obtained a special permit from the local school board or designated school official, in accordance with regulations prescribed by the Superintendent of Public Instruction. But a permit for such employment may be issued also to a child 14 years of age if the child has completed satisfactorily the highest grade of the elementary school of the district in which he resides and if issuance of the permit has been recommended by the local Superintendent of Schools and

---

1/ Massachusetts General Laws, Chapter 149, Section 86.

2/ With the exception of children in agriculture, the minimum age is 16 for children employed in any establishment or occupation during school hours and 14 in any establishment or occupation outside school hours.

3/ Amended in 1939.

approved by the State Superintendent of Public Instruction.[1/]

3. New York.

In New York the minimum age for children employed in any business or service during school hours is 16, but children 14 or over who are high school graduates are exempted. This broad restriction would seem to apply also to children engaged in farm work. For work during vacation, and outside school hours the minimum age is 14 for children engaged in non-factory work, 15 for those employed in Non-factory establishments and incapable of profiting by further instruction, and 12 for children working for parents in farm service.

In this State the law expressly provides that certificates of employment shall not be required for farm work for minors 16 years of age or over. It also specifically states that children of 12 years or over, working outside school hours in farm service for parents, are exempt. From the two foregoing provisions, and from the provision of a minimum age of 14 for children engaged in non-factory work, it may be concluded that during vacation or outside school hours children 14 and under 16 in farm service for persons other than their parents must obtain such certificates.

4. North Carolina.

In North Carolina the minimum age of 16 applies to any gainful

---

1/ Pennsylvania Acts of 1939, Act No. 352, approved June 24, 1939

occupation during school hours and the minimum age of 14, to non-factory employment outside school hours. In each case farm work performed under direction or authority of minor's parents or guardian is exempt. This implies that the provisions apply to the work of children in agriculture not incidental to the home.

Similarly, the law provides that certificates are required for employment of minors under 18 in any gainful occupation, with the exception of farm work performed under the direction of parent or guardian, implying that farm work not in this catagory is covered. Also, by implication, the hours of children in agriculture not under the authority of the minor's parent or guargian are limited. Thus, the child labor law of North Carolina provides that the work of minors between the ages of 16 and 18 is limited to a nine-hour day and 48-hour week, and that the work of minors under 16 years of age is limited to an eight-hour day and a 48-hour week in any gainful occupation, with the exception of the work of children working in agriculture for their parents. The combined hours of work and hours in school for children under 16 employed outside school hours in any gainful occupation, except farming incidental to the home, are limited to eight a day.

5. Wisconsin.

In Wisconsin, employment of children in agriculture is generally excepted from the minimum age provisions,[1/] and employment

---

1/ 16 during school and 14 at any time.

certificates for children in farming are not required. But the Industrial Commission is granted power to regulate the employment of children under 16 in specified types of commercialized agriculture, such as cherry orchards, market gardening, gardening conducted or controlled by canning companies and the culture of sugar beets and cranberries. Under this authority, the Commission, in March 1926, issued an order that "no minor under the age of 14 years, who has not completed the eighth grade in school, shall be employed or be permitted to work in the culture and harvesting of sugar beets during the hours when the public schools are in session in the school district in which such minor is actually living during the beet culture and harvesting season."[1/]

Similarly, while the work of children in farming is this State is generally exempted from the maximum hour provision with respect to minors under 18 and under 16,[2/] as the case may be, the child labor act empowers the

---

1/ The order also stipulated that the companies engaged in the manufacture of beet sugar and who arrange contracts between the growers and the families who are to perform the work shall send to the Industrial Commission the following information: (a) the name and address of the field agent; (b) the name, location, and address of each family under his supervision; (c) the last residence address of each migratory family; (d) the name and age of each child under 16 years of age in the family; (e) the name and address of the grower with whom the contract is made; (f) the name or number of the school in the district.
It was also provided that "Companies engaged in the manufacture of beet sugar who arrange contracts between the growers and the families who are to perform the work, shall advise parents and growers of the provisions of these orders."

2/ With the exception of farm labor, and except as the State Industrial Commission may set up other regulations by order, the child labor law provides for a maximum eight-hour day and 40-hour, six-day week for children under 18 and for a 24-hour week for children under 16.

occupation during school hours and the minimum age of 14, to non-factory employment outside school hours. In each case farm work performed under direction or authority of minor's parents or guardian is exempt. This implies that the provisions apply to the work of children in agriculture not incidental to the home.

Similarly, the law provides that certificates are required for employment of minors under 18 in any gainful occupation, with the exception of farm work performed under the direction of parent or guardian, implying that farm work not in this catagory is covered. Also, by implication, the hours of children in agriculture not under the authority of the minor's parent or guargian are limited. Thus, the child labor law of North Carolina provides that the work of minors between the ages of 16 and 18 is limited to a nine-hour day and 48-hour week, and that the work of minors under 16 years of age is limited to an eight-hour day and a 48-hour week in any gainful occupation, with the exception of the work of children working in agriculture for their parents. The combined hours of work and hours in school for children under 16 employed outside school hours in any gainful occupation, except farming incidental to the home, are limited to eight a day.

5. Wisconsin.

In Wisconsin, employment of children in agriculture is generally excepted from the minimum age provisions,[1/] and employment

---

1/ 16 during school and 14 at any time.

certificates for children in farming are not required. But the Industrial Commission is granted power to regulate the employment of children under 16 in specified types of commercialized agriculture, such as cherry orchards, market gardening, gardening conducted or controlled by canning companies and the culture of sugar beets and cranberries. Under this authority, the Commission, in March 1926, issued an order that "no minor under the age of 14 years, who has not completed the eighth grade in school, shall be employed or be permitted to work in the culture and harvesting of sugar beets during the hours when the public schools are in session in the school district in which such minor is actually living during the beet culture and harvesting season."[1/]

Similarly, while the work of children in farming is this State is generally exempted from the maximum hour provision with respect to minors under 18 and under 16,[2/] as the case may be, the child labor act empowers the

---

1/ The order also stipulated that the companies engaged in the manufacture of beet sugar and who arrange contracts between the growers and the families who are to perform the work shall send to the Industrial Commission the following information: (a) the name and address of the field agent; (b) the name, location, and address of each family under his supervision; (c) the last residence address of each migratory family; (d) the name and age of each child under 16 years of age in the family; (e) the name and address of the grower with whom the contract is made; (f) the name or number of the school in the district.
It was also provided that "Companies engaged in the manufacture of beet sugar who arrange contracts between the growers and the families who are to perform the work, shall advise parents and growers of the provisions of these orders."

2/ With the exception of farm labor, and except as the State Industrial Commission may set up other regulations by order, the child labor law provides for a maximum eight-hour day and 40-hour, six-day week for children under 18 and for a 24-hour week for children under 16.

Industrial Commission also to regulate the hours of employment of children in specified types of farming. Under this authorization the Commission included in the 1926 order, mentioned above, a decree that "no minor under the age of 14 years shall be employed or be permitted to work in the culture or harvesting of sugar beets more than eight hours in any one day, nor more than 48 hours in any one week, nor before the hour of seven o'clock in the morning, nor after the hour of seven o'clock in the evening."

6. Nebraska and California.

Nebraska and California are two other States in which regulation of working hours is provided for children in certain types of agricultural employment. In Nebraska the child labor law expressly provides that children under 16 in sugar beet production shall not work more than a maximum of eight hours a day nor more than a maximum of 48 hours a week. In California, the eight-hour day and 48-hour week for minors under 18 applies to any occupation, with certain exceptions. One of these exceptions applies to children under 16 years of age outside school hours, and to children 16 years of age and over employed in agriculture, horticulture, or viticulture at any time. It may be inferred, therefore, that the hour limitations in this State apply to children 16 years of age and under 18 in farming outside school hours, and to children under 16 in this occupation at any time. The law, however, specifically excludes

agricultural occupations from the provision that work hours of minors under 18 working outside school hours, together with hours at school, are limited to eight per day.

In both Nebraska and California the all-inclusive minimum age provisions (14 years in Nebraska and 15 in California) of the child labor laws nominally cover children in agriculture employed during school hours, but exclude them when working outside school hours. In the age limitation provisions of children working outside school hours, the Nebraska law fails to include agriculture among the enumerated employments covered, while the California law specifically exempts farming occupations. Similarly, with respect to employment certificate requirements for child agricultural workers, the Nebraska law omits farming from a long list of covered occupations, while the California statute specifically excepts agriculture, horticulture and viticulture.

7. District of Columbia.

The school attendance law of the District of Columbia, which applies to all children, limits the work of minors in all occupations during school hours. Full-time attendance is required of children between the ages of seven and 16 for the entire session, except those 14 years of age who have completed the eighth grade and are employed. Outside school hours the minimum age of 14 applies to child workers in Agriculture, provided such employment is not incidental to their homes. Similarly, the law requires employment certificates

for children between 14 and 18 employed outside school hours in agriculture provided this employment has no connection with the home of the children's parents or guardians.

8. Puerto Rico.

With the exception of work in gardens and on experimental farms, but including all other types of agriculture, the child labor law of Puerto Rico fixes a minimum age of 14 for children in any gainful occupation, requires employment certificates for minors between 14 and 16 if employed during the school term, [1/] and provides for a maximum eight-hour day and 40-hour week for children under 16 years of age.

9. Hawaii.

The child labor section of the recently enacted law in Hawaii is comprehensive.[2/] It establishes a basic minimum age of 16, but minors between 12 and 16 may work outside school hours and during school vacations in non-factory and non-prohibited employment. The act also exempts minors more than 14 years old employed in agriculture outside school hours as well as minors employed in agriculture outside school hours in connection with the minor's own home and directly for his parent or guardian. From this language it would appear,

---

1/ Exceptions are also made in the case of orphaned children, children who depend on their work for their own support, and of children working in support of their parents.

2/ A law creating a Department of Labor and Industrial Relations was passed in Hawaii in April 1939, which will become effective January 1, 1940.

pending an official interpretation of these provisions, that there is a 12-year minimum age for agricultural work outside school hours in other than the minor's own home. In other words, although minors 14 years of age and over engaged in farming are completely exempted from all provisions of the act, it would appear that the minimum age of 12 applies to minors when working in agriculture not connected with their homes.

It also would appear that minors between 12 and 14 working in agriculture are subject to the maximum hours and certificate provisions of the act. The provision regarding employment certificates states that "no minor under 16 shall be employed or permitted to work in... any gainful occupation unless and until the person employing such minor shall procure and keep on file an employment certificate for such minor." 1/ The regulations regarding maximum hours provide that no minor under 16 years of age shall be employed "more than six consecutive days in any one week, or more than 40 hours in any one week, or more than eight hours in any one day, or before seven o'clock in the morning and after six o'clock in the evening of any day." 2/ It is also stipulated that "the combined hours of work and hours in school of minors under 16 employed outside school hours shall not exceed a total of nine per day." 3/ The law further provides that "no minor under 18 years of age shall be employed or permitted to work for more than five

---

1/ Revised Laws of Hawaii, 1935, Chapter 259B, Section 18, paragraph (d).

2/ Ibid., paragraph (b)

3/ Ibid.

hours continously without an interval of at least 30 minutes for a lunch period and no period of less than 30 minutes shall be deemed to interrupt a continuous period of work."[1/]

1/ Ibid., paragraph (c).

C. Child labor standards in the other States.

The seven States and three jurisdictions reviewed in the previous section are those having labor laws in which some or all of the three standards under discussion - minimum age, requirements for issuing employment certificates, and limitation of hours of work - either expressly cover the employment of children in agriculture or cover it by implication. The remaining States, discussed in this section, are those having labor laws in which some or all of these standards apply either nominally or do not apply at all to children in agricultural employment.

1. Legislation relating to minimum age for child workers.

Nineteen States have minimum age laws covering children employed in any occupation or in any employment during school hours or during the school term. It would seem, therefore, that these laws, broad in their coverage, nominally apply also to children engaged in farm work. These are the States:

Alabama	Kansas	Montana	Oregon
Arkansas	Kentucky	Nevada	Tennessee
Connecticut	Maine	New Mexico	Vermont
Idaho	Maryland	North Dakota	Wyoming
Indiana	Minnesota	Ohio	

All of the minimum age laws of these States, with the exception of Arkansas, do not apply to children working in agriculture outside school hours. In Arkansas, the all-inclusive law applies during as well as

outside school hours, except that during school vacation a child may be employed by his parent in occupations owned or controlled by him. The minimum age laws of Alabama and Indiana specifically exempt children in agriculture working outside school hours. Nevada and Wyoming 1/ make no minimum age provisions for children working outside school hours. The other 14 States fail to include farming occupations in the enumerated industries covered by the minimum age laws for children employed outside school hours.

In all of these States, with the exception of Maine and Ohio, the minimum age permitting entrance of children into employment is 14. 2/ In Maine, the minimum age for employment of children during school hours is 15, and in Ohio, 16. However, in Ohio, children 14 years of age or over who are high school graduates are exempted. The same age limitation

---

1/ In Wyoming no minimum age provision exists in the labor law, but age of entrance into employment is indirectly regulated through the school attendance law which forbids the employment of children in any occupation or service during school hours whose school attendance is legally required. Full-time school attendance in the State is required for children between seven and 17 years of age for the entire season, except those (a) who have completed the eighth grade, (b) who are physically or mentally incapacitated, (c) who are excused because the attendance would work a hardship, and (d) who are excluded from school for legal reasons and no provision for their schooling has been made.

2/ The Montana law provides for a minimum age of 16 years for children employed either during or outside school hours in factories and certain other enumerated industries, of which agriculture is not one. However, for occupations not covered in this law, a minimum age of 14 is fixed indirectly by the provision that children under 16 cannot be employed without employment certificates, which are issued only to children 14 or over, during the school term or while school is in session.
In Vermont, the minimum age for children engaged in any gainful occupation during school hours is 14, but the Commissioner of Industries, with the approval of the Governor, may exempt from the child labor law for two months a year a manufacturing establishment or business, the material and produce of which are perishable and require immediate labor.

applies in Maine for children of subnormal mental capicity engaged in non-hazardous work.

In contrast with the States which nominally include child workers in agricultural employments under their all-inclusive minimum age laws, those of the remaining States fail to cover this category of child workers either during or outside school hours, or in both periods. This exclusion is accomplished either by omitting agriculture from the enumerated occupations covered or by specifically exempting it. Under the child labor laws of the following 12 States and Alaska, agriculture is not among the enumerated occupations for which a minimum age is fixed for children employed either during or outside school hours:

Arizona	Iowa	Oklahoma
Florida	Michigan1/	South Dakota
Georgia	Mississippi	Texas
Illinois	New Hampshire	Washington

On the other hand, the child labor laws of the following ten States specifically exempt farming occupations from the minimum age provisions of their laws for children working during school hours:

Colorado	New Jersey	Utah
Delaware	Rhode Island	Virginia
Louisiana	South Carolina	West Virginia
Missouri		

1/ Although the law in this State fails to enumerate agriculture among the occupations for which a minimum age is fixed, in practice children under 15 are not excused from school attendance for agricultural employment.

All of these ten States, with the exception of Colorado and Utah, also specifically exempt agriculture from the minimum age law for children employed outside school hours. The law in Colorado accomplishes the same objective, however, by failing to enumerate farming pursuits among the occupations covered during this period. On the other hand, since the law in Utah provides that outside school hours children 14 and 15 years of age may be employed in agriculture if the work is in connection with their homes, 1/ it may be implied that during this period the minimum age for children in this restricted type of agricultural employment is 14. It may further be inferred from the language of the law that outside of school hours, children under 16 are prohibited from working in agricultural occupations not incidental to their homes.

2. Legislation requiring employment certificates for minors.

Fourteen States have laws requiring employers of children engaged in any gainful occupation during or outside school hours, or during both periods, to obtain certificates of employment. It would appear, from the all-inclusive character of the provision, that the coverage also includes children employed in agriculture in these States:

Arkansas	Minnesota	Oregon
Connecticut	Montana	Vermont
Kentucky	Nevada	Washington
Maine	New Mexico	West Virginia
Maryland	Ohio	

1/ This is an exemption to the child labor law of the State which generally provides for a minimun age of 16.

In Arkansas, regular certificates are required for employment of children under 16 for work in any establishment or occupation.[1] In Connecticut, regular certificates are required for employment of children between 14 and 16 during school hours in any occupation not covered by the 16-year minimum age provisions.[2] This applies to agriculture employment. In Kentucky, employment certificates are required for children between 14 and 16 for employment in certain enumerated occupations, of which agriculture is not one. However, under the School Code, passed in 1934, a certificate for such minors is required for work in any gainful occupation, and it is believed that the issuing officials are now following this provision in the school Code instead of issuing certificates only for work in occupations listed in the child labor law. In Maine, the law requires a certificate for the employment of children during school hours in any occupation. In Maryland, a minimum age of 14 is fixed for work in a long list of enumerated occupations and also for employment during school hours in any business or service. Since the law requires that certificates be issued for the employment of children in any occupation named in the minimum age section, the law may be interpreted to require a certificate for children employed in agriculture during school hours.

1/ Completion of fourth grade required .

2/ Completion of the eighth grade required , but the State Board of Education may waive the grade requirement in case of an educationally retarded child.

In Minnesota, certificates are required for children between 14 and 16 employed in any business or service during school hours.[1/] The Montana statute requires certificates for children between 14 and 16 years of age employed in any occupation during school hours.[2/] In Nevada, certificates are required under continuation school law for employment of minors between 14 and 18 in any occupation during school hours.[3/] The New Mexico law requires certificates for employment of children between 14 and 16 years of age in any gainful occupation during school hours, and for employment of children under 14 at any time except children working for parents or guardians on premises owned or occupied by them.[4/] The Ohio statute contains a general provision requiring certificates of employment for children between 16 and 18 years of age in any occupation only for employment during school hours. Oregon, under its continuation school law, requires certificates for employment of children between 14 and 18 in any occupation.[5/] In Vermont, certificates

---

1/ Physican's certificate of physical fitness and completion of eighth grade required.

2/ Completion of eighth grade is required except in case where child 's wages are necessary for family support.

3/ No grade or other educational requirement.

4/ Certificate of physical fitness optional with issuing officer. Evidence of economic necessity required. No grade or educational requirement.

5/ Physician's certificate of fitness may be required. Completion of eighth grade required for children under 16 by ruling of the State Welfare Commission.

are required for children under 16 for employment in any gainful occupation during school hours.[1/] The State of Washington requires certificates for employment in any occupation during school hours where continuation schools are established for children between 14 and 18.[2/] West Virginia requires such certificates for employment of children under 16 years of age in any gainful occupation.[3/]

On the other hand, the following 13 States have employment certificate laws which fail to include agriculture among the covered industries in which employment of children during and outside school hours requires working papers:

Arizona	Iowa	North Dakota
Colorado	Kansas	Oklahoma
Florida	Michigan	South Dakota
Georgia	New Hampshire	Tennessee
Illinois		

The following ten states have employment certificate laws which specifically exempt children employed in agriculture during and outside school hours:

1/ Physician's certificate of physical fitness required. Completion of eighth grade required. (Completion of sixth grade is required for children 15 years of age who are excused from school attendance for support of parents or for other sufficient reason.)

2/ Completion of eighth grade required for children 14; no grade requirement for children 15 nor for children 14 who cannot profitably pursue further school work.

3/ Certificates of physical fitness and completion of eighth grade plus any higher available grade are required.

Alabama	Missouri	Utah
Deleware	New Jersey	Texas 1/
Indiana	Rhode Island	Virginia
Louisiana		

The four States of Idaho, 2/ Mississippi, 3/ South Carolina, 4/ Wyoming, 5/ and the jurisdiction of Alaska, have no certificate system as a condition for employment of minors.

3. Maximum hour legislation affecting child workers.

Of the 45 States, the District of Columbia, Hawaii and Puerto Rico having laws limiting the hours of child labor, 6/ only 13 States, Hawaii and Puerto Rico specifically or nominally cover children

---

1/ No employment certificate system for children exists in this State above the minimum age of 15 years. Provision is made for issuance of special permits to children between 12 and 15 years of age in non-harmful employment in cases where child's earnings are necessary for his own or family support. Agricultural pursuits are entirely exempted from the act.

2/ Literacy and proficiency in certain subjects are required of children under 16 for employment in any gainful occupation during school hours.

3/ For work in certain enumerated occupations, of which agriculture is not one, employer must secure for the employment of children under 16 a parent's affidavit and a certificate of the school superintendent or principal stating age of child, school grade attended, etc.

4/ The employment certificate requirement found in the law prior to 1937 applied only to children between 14 and 16 for employment in factories, mines, and textile establishments.

5/ Although there is no certificate system in this State, the machinery for issuing such certificates is provided. But by a defect in the law, certificates are required only for minors between 14 and 16 in occupations in which employment is entirely prohibited under 16.

6/ Georgia, Montana, South Carolina, and Alaska make no provision for maximum hours specifically for children engaged in any industry.

employed in farming. The maximum hour provisions of the laws expressly or inpliedly applying to children in agriculture in the States of California, Nebraska, North Carolina, Wisconsin, and in the jurisdictions of Hawaii and Puerto Rico, have already been described. The other nine States, which have laws providing this coverage nominally through an over-all inclusion from which agricultural employments are not exempted are as follows:

Arkansas	Illinois	New Mexico
Colorado	Minnesota	Oregon
Deleware	Idaho	Ohio

The laws of the States of Arkansas, Colorado[1], Deleware, Illinois, and Minnesota provide for a maximum eight hours per day and 48 hours per week for the employment of children under 16 years of age in any gainful occupation. In Arkansas, the law also provides for a ten-hour day and a 54-hour week maximum for children between 16 and 18 years of age employed in any occupation. In Idaho, children under 16 are limited in their work hours to a nine-hour day and a 54-hour week in any gainful occupation, and in New Mexico, to and eight-hour day and a 44-hour week.[2] In Oregon, the maximum eight-hour day and 44-hour week applies to children under 18 employed in any occupation, and in Ohio the employment of minors under 16 is governed by a maximum nine-hour day for school and work

---

1/ In Colorado, children between 14 and 16 years of age employed at any time during the year and those between 12 and 16 employed during summer vacation may be exempted from the maximum hour provisions on special permit.

2/ In New Mexico, children working for parents or guardians on premises or land owned or occupied by them are excepted. Work in this State may be permitted up to 48 hours a week under special circumstances to be determined by the official issuing employment certificates.

combined, and those under 14, by a four-hour day outside of school hours.[1/]

Of the 32 States and the District of Columbia having maximum hour laws which do not apply to children in agriculture, 19 States and the District of Columbia specifically exempt this type of child labor and 13 fail to enumerate farming in the covered industries or occupations. The table below shows the status of agricultural child labor of both sexes under the maximum hour laws of the States.

Status of Agricultural Child Labor of Both Sexes Under the Maximum Hour Laws of the States (45 States and three jurisdictions)[a/]

Covered specifically or by implication	Covered Nominally	Agriculture not included in enumerated occupations	Specifically exempted	
California	Arkansas	Connecticut	Alabama	Pennsylvania
Nebraska	Colorado	Florida	Arizona	South Dakota
North Carolina	Deleware	Iowa	Indiana	Texas
Wisconsin	Idaho	Kansas	Louisiana	Utah
Hawaii	Illinois	Kentucky	Massachusetts	Vermont
Puerto Rico	Minnesota	Maine	Missouri	Virginia
	New Mexico	Maryland	Nevada	West Virginia
	Ohio	Michigan	New Hampshire	Wyoming
	Oregon	Mississippi	New Jersey	District of Columbia
		New York	North Dakota	
		Rhode Island	Oklahoma	
		Tennessee		
		Washington		

a/ Georgia, Montana, South Carolina, and Alaska have no maximum hours provisions for children engaged in any industry.

1/ In Ohio, the eight-hour day and 48-hour week for boys under 18 and girls under 21 is applicable only to named occupations, of which agriculture is not one.

II. Status of Adult Workers in Agriculture Under Laws Limiting Hours of Work.

A. Legal limits of hours for women workers.

The movement for the limitation of hours for women workers in this country followed closely on the heels of the agitation to regulate the hours of children. Since 1908, when the Oregon ten-hour law for women was upheld by the United States Supreme Court, this legislation was placed upon a secure footing, and since that date the movement has gone steadily forward.

Today. 44 States, the District of Columbia and Puerto Rico provide varying degrees of protection to women engaged in gainful occupations through the limitation of hours of work in certain enumerated employments.[1/] Forty-two of these States have laws limiting the hours of work specifically for women. The other two States- Georgia and Florida- have laws which apply to both men and women.[2/] Forty of the 44 States provide for a maximum hour day as well as for a maximum hour week for women workers in some or in all occupations. Three States - Colorado, Idaho and Montana - place only a day limit on hours, and Minnesota provides only a maximum hour week for female workers.

1/ No maximum hour legislation affecting women workers has been enacted in Albama, Indiana, Iowa, West Virginia, Alaska and Hawaii.

2/ In Georgia the maximum daily and weekly hour law covers women by affording protection to all employees in cotton or woolen manufacturing establishments. Similarly, the Florida statute covers any employee in any occupation in the absence of a written contract.

B. Legal limitations of hours for women in agriculture.

No State provides specifically for the limitations of working hours for women employed in farming occupations. Of the 44 States and two jurisdictions which have laws regulating the hours of employment for women workers, only seven - Arizona, Florida, Kentucky, Mississippi, Nevada, Texas and Utah - and Puerto Rico could possibly apply to woman labor in agriculture. By providing for all women engaged in any private employment or any lucrative occupation, agricultural pursuits not specifically excepted, the laws of these States nominally cover the employment of women in farm work.

Thus, the law in Arizona stipulates that females in any gainful occupation are limited to eight hours of work within a 13-hour period and to a six-day, 48-hour week. The Florida statute provides that 10 hours shall constitute a work day for any employee in any occupation in the absence of written contract, and extra pay is provided for all hours in excess of 10 per day, unless written contract is made to the contrary. In Kentucky, females under 21 years of age employed in any gainful occupation, with certain exceptions, of which farm work is not one, are restricted to a 10-hour day and 60-hour week. In Mississippi, the law providing for a maximum 10-hour day and 60-hour week covers certain enumerated industries in which women are employed, farming not being one of the exempted occupations. Overtime is permitted in cases

of emergency or public necessity, but no provisions are made for a higher rate of pay for overtime. In Nevada, women engaged in all private employment are limited in their hours of work to eight per day and to 48 per week. A maximum of 12 hours a day and 56 per week is permitted in rush periods, if additional help is not available, and provided time-and-a-half is paid for overtime. In Texas, a maximum of nine hours a day and 54 a week governs employment of women in any establishment, institution or enterprise where females are employed. In emergencies, longer hours may be worked with the consent of the employees, provided double time is paid.

In March 1939 Utah extended the coverage of its eight-hour day, 48-hour week for women employed in specifically enumerated industries to females employed in any industry, trade or occupation with certain exceptions, of which agriculture is not one. The law permits overtime work in emergencies, but no higher rate of pay is required. In Puerto Rico, women over 16 are covered under the act which provides for a maximum work day of eight hours and a maximum work week of 48 hours in any lucrative occupation. Agriculture labor is not among the excepted occupational groups. Nine hours a day is permitted if double time is paid and if the maximum weekly hours are not exceeded.

Of the remaining 37 States and the District of Columbia which have laws limiting the hours of work for women employed in enumerated

industries or occupations, 12 States specifically exempt women employed in all agricultural pursuits,[1] two States - Washington and Oregon - exempt women employed only in harvesting, and 23 States and the District of Columbia omit farming from the list of employments covered.[2]

C. Legal limitations of hours for adult male workers.

State regulation of the working time of men has been of slower development in the United States than that covering the hours of work of women and minors. While the constitutionality of such legislation affecting women and child workers has been firmly established, the courts have viewed hour-limiting legislation for men with uncertainty. In such cases the purpose of the restriction and the type of employees covered have been usually the deciding factor. Hours legislation has been upheld where it has applied to men engaged in private employments where public safty was directly affected and in these employments considered dangerous or unhealthy to the workmen.

Today, State governments generally regulate the work periods of male adults in three main groups of private employments: transportation, mines and quarries, manufacturing and mechanical trades. All States,

---

1/ Arkansas, California, Idaho, Louisiana, Massachusetts, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee.

2/ Colorado, Connecticut, Deleware, Georgia, Illinois, Kansas, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, Montana, New Jersey New Mexico, New York, North Dakota, Rhode Island , South Carolina, Vermont, Virginia, Wisconsin, and Wyoming. Also Kentucky, with respect to women 21 years of age or over.

with the exception of Vermont, and Hawaii, have passed laws regulating the hours of men in certain enumerated industries in each of these three groups .

D. Legal limitations of hours for adult male workers in agriculture.

Puerto Rico is the only jurisdiction in which the law limiting the hours of work applies to male agricultural workers. Here, the daily maximum eight-hour law includes all employees in commercial, industrial or agricultural establishments or any other occupation. Overtime work is permitted in extraordinary emergencies, in which case nine hours of work are allowed if double time is paid for the extra hour. The hour laws of two States - California and Connecticut - are generally inclusive. By not specifically exempting workers in agriculture, they nominally include them. In both States, the law stipulates that eight hours shall constitute a legal day's work for any employee in any occupation. In Connecticut, however, this provision is qualified by the phrase "Unless otherwise agreed."

No other State or jurisdiction either includes agriculture among the listed occupations covered under its laws limiting or otherwise regulating the working hours for men, or provides all-inclusive coverage that would permit of an interpretation of nominal coverage of farm workers. Ten States specifically exempt farm labor from the

provisions of their maximum hour law or from their provisions defining a legal work day. These States are: Illinois, Indiana, Maine, Michigan, Minnesota, Montana, New York, North Carolina, South Carolina.

Eight of these ten States define a legal work day which does not cover farm labor. The law of Illinois stipulates that eight hours shall constitute a day's work for any employee in "mechanical trades, arts and employment and other kinds of labor by the day, unless otherwise agreed." Farm employment is specifically exempted. In Indiana, Missouri, Montana and New York, eight hours constitute a day's work for any employee in any occupation or all occupations, with the exception of farm service and stock raising. In Maine, ten hours constitute a day for laborers in any occupation, unless otherwise contracted for, agricultural employees being exempt. The Michigan law provides that ten hours shall constitute a day's work for any employee in "factories, work shops, salt blocks, saw mills, logging or lumber camps, etc.", but farm laborers who agree to work more than ten hours are exempted. In Minnesota, ten hours constitute a day's work for any employees in any occupation, with the exception of farm laborers and persons engaged in care of livestock.

The two Carolinas make provision for a maximum hour work day and work week, but specifically exempt farm labor from the coverage.

In North Carolina the statute provides for a 10-hour day and 55-hour week maximum for all males in any occupation, except agricultural labor, along with some others. In South Carolina, the maximum 12-hour day and 56-hour week applies to any employees in certain enumerated occupations, of which agricultural pursuits, among others, are exempted. 1/

1/ The South Carolina act (1938) applying to both men and women in a number of industries, has been declared unconstitutional in a lower court and has been appealed to the State supreme court which, as yet, has not rendered a decision.

III. Status of Agricultural Workers Under Minimum Wage Legislation

A. Economic background of minimum wage legislation in the United States.

It has long been recognized that if large groups of the population are paid wages too low to provide decent food, shelter and clothing, the resulting ill health and often ultimate dependency are inimical to the best interests of society in general. Accordingly, movement to raise the living standards through minimum wage legislation of at least two groups of our working population in the United States, namely, of women and child workers, was first begun in 1912.

Many reasons have been advanced for the selection of these two groups to be the recipients of this benefit. First, the inclusion of men under such legislation was strongly resisted by organized labor.[1/] Second, women and minors were singled out for special treatment because they were practically unorganized to bargain collectively with employers. Third, reports of State departments of labor and of the Federal government[2/]

1/ Although historically the American minimum wage laws are a direct outgrowth of the Australian-New Zealand acts of the 1890's and early 1900's, they departed from them by applying only to women and minors.

2/ Particularly the report made by the Federal government on "Woman and Child Wage Earners in the United States, 1907-1910."

revealed to the amazement of the country that millions of women and children were employed in factories and other establishments and that their rates and earnings were shockingly low.

Besides the concern for normal women and children, minimum wage laws have given particular attention to two other special groups of workers: apprentices and substandard workers. It has been recognized that these two classes of workers usually are not capable of rendering the same sort of service as are normal adult women, and should be given a somewhat different status in the minimum wage scheme.

B. Legal background of minimum wage legislation in the United States.

The first minimum wage law in the United States was passed in Massachusetts in 1912, the law to become effective in 1913. In the latter year, eight States followed Massachusetts in providing regulation of rates of pay of women and minors. After 1913 the movement slowed down, but by 1923, eight additional States had enacted minimum wage legislation.

During the years in which the laws have been on the statute books, they have been subjected to repeated court attacks. The court offensive against these laws was touched off by the Supreme Court's decision in 1923 declaring unconstitutional the minimum wage law of the District of Columbia. During the next ten years little legislation was enacted and few of the laws on the statute books were enforced.

Legislative activity along this line was resumed in 1933 and a number of States have since passed minimum wage laws which attempted

to overcome the legal objections raised by the court against the District of Columbia law. But in 1936 minimum wage legislation was given another setback when the Supreme Court held the New York statute unconstitutional. In 1937, however, the same Court held constitutional the minimum wage law for women in the State of Washington. This decision, in effect, validated all the minimum wage laws, and the Attorney General of the United States ruled, as a result of this decision, that the District of Columbia law was revived. The importance of the 1937 decision is evident in the almost spectacular State activity which followed in the field of minimum wage legislation.

C. States having minimum wage laws.

Twenty-six States,[1] the District of Columbia, Puerto Rico and Alaska have minimum wage laws. All of these laws, with the exception of the Oklahoma and Connecticut statutes, apply only to women and minors or women and girls. The Oklahoma and Connecticut acts apply to men as well as to women and minors.[2]

All of the minimum wage laws, with the exception of those in Nevada, South Dakota, Puerto Rico and Alaska, provide for a determination of wage rates by conferences or wage boards, appointed by the authority empowered to administer the law, to study the various industries. These boards make recommendations to the State agencies which then are authorized to fix minimum wages and issue orders. In Nevada,

---

1/ Arizona, Arkansas, California, Colorado, Connecticut, Illinois, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington and Wisconsin.

2/ The Oklahoma law, enacted in April 1937, was the first State minimum wage law to apply to men as well as to women and minors. Its constitutionality has been unsuccessfully contested in the State District Court and in the State supreme court. The State supreme court decision is of far-reaching significance because it is the first rendered by any State supreme court concerning the constitutionality of minimum wage legislation for men. However, the minimum wage provisions of the statute can not be applied to men and minors because the title of the act is not sufficiently clear on the subject of minimum wages for men and minors to permit such application. For this reason a bill was introduced in the legislature amending the law to correct the technical defects in the title and make clear its application to all workers. This bill did not pass. Similarly, another bill repealing the minimum wage law entirely was also defeated. The act in Connecticut extending the minimum wage law to cover men as well as women and minors was passed in June 1939.

South Dakota, Puerto Rico and Alaska the minimum wages to be paid are determined by the legislatures and are specified in the laws. In Arkansas, the legislature determines the minimum wage, but the Industrial Welfare Commission of the State has power to revise and adjust the wage to the changing cost of living.

D. Minimum wage laws and orders affecting agricultural workers.

Since the two States - Oklahoma and Connecticut - which have minimum wage laws covering men as well as women and minors, exempt agricultural occupations, the question of coverage of persons employed in farming in the other 24 States which have minimum wage laws is restricted to women and minors.

Minimum wage laws are generally broad in their coverage of industries, most of them being all-inclusive, with a few listed exceptions. Nevertheless, of the 26 States, the District of Columbia, Puerto Rico and Alaska, having minimum wage laws, 15 States [1] and Puerto Rico specifically exempt agricultural pursuits from the provisions of the law, and two States - South Dakota and Maine [2] - do not list farming among the covered occupations. Of the remaining nine States, the District of Columbia and Alaska, eight States and the District of

---

1/ Arizona, Arkansas, Connecticut, Illinois, Kentucky, Louisiana, Massachusetts, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania and Rhode Island.

2/ The minimum wage law of Maine, enacted in 1939, applies only to "the industry or business of packing fish and fish products in oil, mustard or tomato sauce."

Columbia nominally permit coverage of both women and minors in agricultural pursuits, while Nevada and Alaska nominally cover only women in these occupations. The inclusion of these agricultural workers is accomplished through an all-inclusive coverage provision from which agriculture is not exempted. These jurisdictions having such coverage are: 1/

California	Nevada	Wisconsin
Colorado	Oregon	District of Columbia
Kansas	Utah	Alaska
Minnesota	Washington	

1/ California's minimum wage law covers women and minors (girls under 21 and boys under 18 years of age) employed in "any occupation, trade or industry"; the minimum wage law in Colorado covers women and minors (persons of either sex under 18 years of age) employed in "any and every vocation, trade, pursuit or industry"; the minimum wage law in Kansas covers women and minors (females under 18 and males under 21 years of age) employed in "any occupation"; Minnesota's minimum wage law covers women and minors (persons of either sex under 21 years of age) employed in "any occupation"; Nevada's minimum wage law covers women workers engaged in "private employment", except domestic service; the minimum wage law in Oregon covers women and minors (persons of either sex under 18 years of age) employed in "any occupation"; Utah's minimum wage law covers women and minors (females under 21 and males under 18 years of age) employed in "any occupation, trade or industry"; in Washington the minimum wage law covers women and minors (persons of either sex under 18 years of age) employed in "any occupation, trade or industry"; the Wisconsin minimum wage law covers women and minors (persons of either sex under 21 years of age) "in receipt of or entitled to any conpensation for labor performed for any employer"; the minimum wage law of the District of Columbia covers women and minors (persons of either sex under 18 years of age) employed in "any occupation" except domestic service; the law in Alaska applies only to women over 18 in any occupation.

The existence of a minimum wage law on the statute books of a State does not mean. however, that minimum wage rates are automatically fixed for persons in covered occupations. As already noted, minimum wage rates for workers in covered industries are determined by conferences or wage boards in 24 States and the District of Columbia. Eight of these States and the District of Columbia nominally cover women and child agricultural workers. It would seem, therefore, that before these agricultural workers may receive the benefit of having their minimum wages fixed in these jurisdictions, the commissions or wage boards must first issue specific or blanket decrees or orders applying to them.

In accordance with this procedure, State authorities in only two States - Wisconsin and Oregon - have issued orders fixing minimum wages nominally affecting agricultural workers. In each of these States, however, such apparent inclusion has been accomplished not by a separate order specifically applying to agricultural occupations, but by a blanket order covering all occupations. Thus, in Wisconsin, for example, the Industrial Commission issued a blanket order in 1919, which it revised in 1932, applying the minimum wage rates to minors under 18 years of age in "any occupation, trade or industry." 1/

1/ The 1932 order fixed the following minimum wage rates:
(a) 17 years and over (experienced) in cities of 5,000 or more - 22½ cents an hour.
(b) " " " " " " " under 5,000 - 20 cents an hour.
(c) " " " " (inexperienced, 2 periods, 3 months each) - 16, 18 cents an hour.
(d) 16 and under 17 years (experienced) - 18 cents an hour.
(e) " " " " " (inexperienced, 6 months or part of season) - 16 cents an hour.
(f) 14 to 15 years (experienced) - 18 cents an hour.
(g) " " " " (inexperienced, one year or season) - 16 cents an hour.
(h) Minors under 17 producing the same output as employees in a higher wage classification must be paid the minimum rate for such class.

Similarly, in September 1937, the State Welfare Commission of Oregon issued a blanket order establishing minimum wages for minors under 18 years of age employed in "any occupation,"[1/] without any exemptions.[2/]

Also, Nevada, one of the nine States having all-inclusive coverage but where minimum wages are fixed by the legislature and specified in the law, provides coverage for women workers emgaged in all occupations,[3/] nominally including those in agriculture.[4/]

Up to the present no court ruling nor opinion of the State attorney general in the States of Wisconsin, Oregon and Nevada has been issued holding the minimum wage orders or the law itself inapplicable to farm laborers. On the other hand, the Minnesota minimum wage law, which provides coverage affecting employees in "any occupation," has been interpreted by the Office of the Attorney General, as far back as 1920 and again in 1933, as having no application to workers engaged in agriculture.[5/] It would appear , therefore, that the minimum wage order

---

1/ The Commission in this State has also issued separate orders fixing minimum wages for women employed in cherry stemming and pitting, for men and women in fruit and vegetable packing, and for women and minors in nut processing, bleaching, grading or packing plants.

2/ The 1937 order fixed the following minimum wage rates:
(a) 14 years - 20 cents an hour.
(b) 15 years - 25 cents an hour.
(c) 16-17 years - apprentice rates fixed for specific occupations.

3/ Women in governmental and domestic services are exempted.

4/ Minimum wages fixed in the law are: three dollars per day and $18 per week. Minimum rates are not compulsory during a single probationary period of three consecutive months.

5/ The 1933 ruling of the State attorney general, however, did include within the regulation of the State minimum wage law minors employed in retail and wholesale nurseries.

of the Industrial Commission issued in July 1938 affecting employees in "any occupation" does not cover farm labor.

Despite the all-inclusive character of the coverage in the Kansas minimum wage law, no minimum wage rates have been fixed as yet by the State Commission of Labor and Industry for any occupation.[1/] The Industrial Commission of Colorado has issued two orders, and the Industrial Welfare Committee of Washington has issued 11 orders,[2/] none of which applies to women or minors employed in farming. In Utah, the Industrial Commission has issued one order[3/] and the Wage Board has made recommendations affecting five industries or occupations, none of which applies to agricultural pursuits.

In California, a minimum wage order affecting women in any agricultural occupation and women and minors employed in cutting and pitting fruit for drying was issued in 1920, but it was rescinded in 1922 because it was said to be unenforceable. In 1923, the

---

1/ In 1925 the Kansas supreme court held the law unconstitutional on the grounds of the precedent established by the United States Supreme Court in the District of Columbia decision of 1923. The Kansas law was declared by the State attorney general to be valid again in March 1938, following the United States Supreme Court decision in 1937 upholding the minimum wage law of the State of Washington. However, the Kansas law is not in effect because no appropriation for its enforcement has been made so far.

2/ Of these eleven orders, one affects women and minors employed in fresh fruit packing, vegetable packing and dried fruit industries, and the other affects these employees in fruit and vegetable canneries.

3/ On December 14, 1938, the supreme court of Utah held constitutional the minimum wage law for women of the State, but declared void the first wage order issued by the Industrial Commission on the grounds that persons affected by the order had not been given an adequate hearing.

Industrial Welfare Commission of California fixed the minimum rates for "all employment not included in other orders" and issued a mandatory order. Among the excepted occupations in this order were "the harvesting, curing or drying of fruits and vegetables." 1/

A bill introduced in the 1939 legislature of the State, including women and minors in agriculture under its minimum wage law and establishing wage boards for agricultural labor, was killed in the Assembly, May 31, 1939.

1/ The California Commission has also issued separate orders fixing minimum wages for women and children engaged in nut cracking and sorting, fruit and vegetable packing and fruit and vegetable canning.